

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

ERICA S. GAIB

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CASE NO. 2:10 CR 167 (2)
JUDGE FROST

PLEA AGREEMENT

The United States Attorney for the Southern District of Ohio and the defendant, ERICA S. GAIB, hereby enter into the following Plea Agreement pursuant to Rule 11(c) of the Federal Rules of Criminal Procedure:

1. Defendant ERICA S. GAIB will enter a plea of guilty to Count 10 of an Indictment filed herein which charges her with knowingly engaging or attempting to engage in a money laundering transaction, in violation of 18 U.S.C. §§ 1957 and 2.
2. Defendant ERICA S. GAIB understands that the maximum penalty that may be imposed pursuant to her plea of guilty to Count 10 is a term of imprisonment of not more than ten (10) years; a fine of not more than \$250,000 or twice the value of the criminally derived property involved in the transaction, whichever is greater; restitution to the victims of her crimes; and up to 3 years of supervised release.
3. Defendant ERICA S. GAIB, will pay a special assessment of \$100 as required in 18 U.S.C. § 3013. This assessment shall be paid by defendant before sentence is imposed and defendant will furnish a receipt at sentencing. The payment shall be made to the United States District Court, at the Clerk's Office, 85 Marconi Boulevard, Columbus, Ohio 43215.

4. Defendant ERICA S. GAIB further understands that she has the following rights, among others:

- a. To be represented by an attorney at every stage of the proceeding, and that, if necessary, one will be appointed to represent her;
- b. To plead not guilty and to be tried by a jury;
- c. To be assisted by counsel during such trial;
- d. To confront and cross-examine adverse witnesses;
- e. To use compulsory process to summon witnesses for the defense;
- f. Not to be compelled to testify; and
- g. To be presumed innocent throughout trial until and unless found guilty by a jury beyond a reasonable doubt.

5. Defendant ERICA S. GAIB understands that if her plea of guilty to Count 10 is accepted by the Court there will not be a further trial of any kind, so that by pleading guilty she waives, or gives up, her right to a trial.

6. Defendant ERICA S. GAIB understands that the Court intends to question her on the record about the offense to which she pleads guilty, which questioning may be under oath and which could provide a basis for a later prosecution of this defendant for perjury or false statements if she does not tell the truth.

7. Defendant ERICA S. GAIB agrees to testify truthfully and completely concerning all matters pertaining to the Indictment returned herein and to any and all other real estate mortgage-related frauds occurring in the Southern District of Ohio in which she may have been involved or as to which she may have knowledge. Defendant further agrees to provide a

complete statement to authorities of the United States concerning such matters prior to sentencing or at any other time that may be requested by the United States Attorney or a federal, state or local investigative agency. Defendant agrees to submit to supplemental debriefings on such matters whenever requested by federal, state or local authorities.

Pursuant to §1B1.8 of the United States Sentencing Guidelines (“Guidelines”), the government agrees that any self-incriminating information so provided will not be used against the defendant in determining the applicable Guidelines range for sentencing, or as a basis for upward departure from the advisory Guidelines range.

8. If such plea of guilty to Count 10 of the Indictment is entered and not withdrawn and this defendant acts in accordance with all other terms of this agreement, the United States Attorney for the Southern District of Ohio agrees to seek leave of Court at sentencing to dismiss Counts 1, 2, 4 and 6 as against this defendant.

9. Understanding that the following agreements under the advisory Guidelines cannot bind the Probation Department or the Court, the United States Attorney for the Southern District of Ohio and Defendant ERICA S. GAIB, the parties to this Plea Agreement, hereby make the following agreements under the advisory Guidelines:

a. The parties agree that Part S of Chapter Two of the Guidelines is appropriate for determination of Defendant ERICA S. GAIB’s offense level. The parties agree that the loss herein is based upon wire frauds related to real estate at 4918 Augusta Woods Court and 1450 East Broad Street, and that such loss is more than \$400,000 and less than \$1 million, which amount constitutes this defendant’s relevant conduct as the term is applied under the Guidelines and for the computation of both the amount of loss and total restitution for ERICA S. GAIB in this case which is based upon the readily provable evidence in this case, and which corresponds to an offense level of **24** under Guidelines § 2S1.1.

b. The parties agree that pursuant to § 2S1.1(b)(2)(A) of the Guidelines, Defendant ERICA S. GAIB offense level must increase by one level.

c. The parties agree that pursuant to § 3B1.2(b) of the Guidelines, Defendant ERICA S. GAIB was a minor participant in the criminal activity herein and therefore deserves a two-level decrease in his offense level.

d. The parties agree that pursuant to § 3E1.1(a) of the Guidelines, at the time of his plea, the defendant, ERICA S. GAIB, has accepted responsibility for the offense and therefore is entitled to a two-level reduction in the applicable base offense level under this section of the Sentencing Guidelines. The parties further agree that this defendant has timely notified the United States as to her intention to plead guilty and therefore may be entitled to an additional one-point reduction to her offense level under Guideline § 3E1.1(b).

e. The parties agree that other than those mentioned in a., b., c. and d., above, no further upward or downward departure points, or levels, should be applicable to this defendant under the Guidelines.

10. The United States Attorney for the Southern District of Ohio agrees that if Defendant ERICA S. GAIB provides substantial assistance in the investigation or prosecution of others who have committed criminal offenses, the United States Attorney may move the Court pursuant to 18 U.S.C. § 3553(e) and/or § 5K1.1 of the Guidelines for an appropriate departure from the otherwise applicable Guidelines range for Defendant's sentence and will in connection therewith make known to the Court the nature and extent of Defendant's assistance. Defendant understands that whether such motion should be made lies within the discretion of the United States Attorney and that whether and to what extent such motion should be granted are solely matters for determination by the Court.

11. The defendant, ERICA S. GAIB, is aware that, in light of *United States v. Booker*, 125 S.Ct. 738 (2005), the Guidelines are advisory and are not mandatory, and that the Court otherwise is required to impose a sentence consistent with the factors set forth at 18 U.S.C. § 3553(a). The defendant is aware that the Court has jurisdiction and authority to impose any

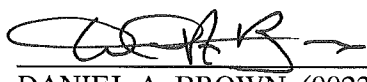
sentence within the statutory maximum set forth for the offenses to which the defendant pleads guilty. The defendant is aware that the Court has not yet determined a sentence. The defendant is further aware that any estimate of a probable sentencing range that the defendant may have received, or may receive in the future, from her counsel, the United States, or the probation office is a prediction, not a promise, and is not binding on the United States, the Probation Department or the Court. The United States makes no promise or representation concerning the sentence that the defendant will receive, and the defendant cannot withdraw a guilty plea based upon the actual sentence.

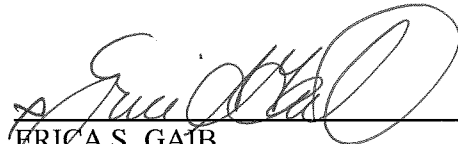
12. By virtue of her plea of guilty to Count 10 of the Indictment, this defendant understands that she is not a prevailing party as defined by 18 U.S.C. § 3006A and hereby expressly waives her right to sue the United States.

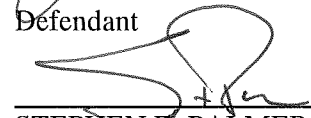
13. No additional promises, agreements, or conditions have been made relative to this matter other than those expressly set forth herein, and none will be made unless in writing and signed by all parties.

9/8/10
(Date)

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ERICA S. GAIB
Defendant


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